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**Re: Policy and Rules Concerning the Interstate,
Interexchange Marketplace; Implementation of Section
254(g) of the Communications Act of 1934, as amended,
CC Docket No. 96-61
and
Federal-State Joint Board on Universal Service,
CC Docket No. 96-45**

Dear Ms. Salas:

On December 4, 1997, on behalf of the American Samoa Government, I filed a letter from Governor Tauese P. F. Sunia of American Samoa to Congressman Eni F.H. Faleomavaega, American Samoa's Delegate to the U.S. Congress, and attachments thereto. The American Samoa Government's initial proposal in the rate integration proceeding erroneously was included in that filing. The filing should have included the American Samoa Government's reply to other parties' comments on its plan, which had been attached to the Governor's letter to the Delegate. I am enclosing that reply with this letter.

If you have any questions, please call me.

Respectfully submitted,

David Sieradzki

David L. Sieradzki
Counsel for the American Samoa
Government

Enclosures
cc: Service List

CERTIFICATE OF SERVICE

I, Rebecca G. Wahl, hereby certify that on this 9th day of December, 1997, a copy of the enclosed letter in CC Dockets No. 96-61 and 96-45 was hand delivered to the parties listed below (except as indicated by asterisks).

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Policy and Rules Concerning the)	
Interstate, Interexchange Marketplace)	
)	CC Docket No. 96-61
)	
Implementation of Section 254(g) of the)	
Communications Act of 1934, as amended)	
)	

**REPLY OF THE AMERICAN SAMOA GOVERNMENT
TO COMMENTS ON ITS PROPOSED RATE INTEGRATION PLAN**

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**Before the
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**REPLY OF THE AMERICAN SAMOA GOVERNMENT
TO COMMENTS ON ITS PROPOSED RATE INTEGRATION PLAN**

The American Samoa Government ("ASG"), by its counsel, hereby submits this reply to the comments on the plan that it filed on October 1, 1997 for the implementation of rate integration in American Samoa. Comments were filed on October 16, 1997 by three of the four U.S. carriers with direct connections to American Samoa -- AT&T Corp. ("AT&T"), MCI Telecommunications Corp. ("MCI"), and Sprint Communications Co., L.P. ("Sprint") -- as well as by IT&E Overseas, Inc. ("IT&E") and George A. Wray ("Wray"). In addition, informal comments were submitted by a number of American Samoa residents. While the Order establishing the procedural schedule in this docket, DA 97-1744 (released Aug. 14, 1997), did not provide a specific date for ASG's reply comments, ASG respectfully submits these reply comments pursuant to the Commission's "permit-but-disclose" *ex parte* rules.

As an initial matter, it must be stressed that ASG is committed to protecting and advancing the interests of the people of American Samoa. ASG's management and operation of the American Samoa Office of Communications ("ASOC") is dedicated to serving the people of American Samoa with universal telephone service of the highest possible quality and at reasonable and affordable prices. This is a particularly important service in light of the fact that no independent carrier has sought to provide local exchange service or originating long distance service in American Samoa, possibly due to the islands' remote location and relatively low median income. In addition, ASG is strongly committed to full implementation of the letter and spirit of the rate integration statute, Section 254(g) of the Communications Act of 1934, as amended ("Act"), both by ASOC and by other carriers providing domestic interexchange service terminating in American Samoa.

I. CONSENSUS ISSUES

Before responding to the comments of those parties that disagreed with certain aspects of ASG's plan, it is important to point out the important areas of consensus in this proceeding. No party challenged or disagreed with:

- ASOC's elimination of distinctions between its rates for service to Guam and the Commonwealth of the Northern Mariana Islands ("CNMI") and its rates for service to all other U.S. points;
- ASG's proposal to restructure ASOC and create two separate entities, one (the "ASOC LEC entity") to provide local services, including access service pursuant to the Commission's rules, and the other (the "ASOC IXC entity") to provide long distance services;

- ASG's plan to bring the ASOC LEC entity and the ASOC IXC entity into full compliance with all applicable FCC rules as expeditiously as possible; and
- ASG's proposal that the ASOC LEC entity would receive support from the federal Universal Service Fund.

Given the lack of any serious dispute about these measures, ASG respectfully requests that the Commission approve its proposals expeditiously so that it may begin the complex process of implementing these plans.

We now turn to the two major areas of disagreement in this proceeding: (1) rate integration for calls from other U.S. points to American Samoa, including dialing patterns and rate levels; and (2) retail rates for calls from American Samoa to other U.S. points.

II. RATE INTEGRATION FOR CALLS FROM OTHER U.S. POINTS TO AMERICAN SAMOA

A. North American Numbering Plan ("NANP")

In its plan, ASG proposed that carriers providing service from other U.S. points to American Samoa integrate American Samoa as a domestic destination in their existing rate plans. ASG noted three options for how such integration could be accomplished: (1) American Samoa could be brought into the North American Numbering Plan ("NANP"); (2) carriers providing service to American Samoa could undertake a modification of their billing systems to treat American Samoa as a domestic point even though it remains outside the NANP; and (3) carriers could change their basic schedule rate levels for American Samoa to match those of other rate-integrated domestic points, while continuing to treat

American Samoa as an international destination for the purpose of their billing systems. ASG stated that it opposed Option (1), due in part to the disproportionately high direct cost (\$3.5 million) to American Samoa ratepayers and/or taxpayers and the associated, potentially costly disruption of changing the dialing plan.

Several carriers expressed their strong opposition to Option (2), due to what they characterize as a very high cost of modifying their own billing systems and those of the local exchange carriers ("LECs") who bill some long distance service on their behalf. 1/ AT&T and Sprint also note that, based on their experience with Guam and CNMI, even Option (1) -- bringing American Samoa into the NANP -- would entail substantial administrative costs. 2/

No carrier, however, seriously opposes Option (3). Indeed, Sprint states that it supports that option, 3/ and AT&T notes that it would be practically feasible to modify the rates in its simple international rate schedules. 4/ Accordingly, it seems clear to ASG that Option (3) would best serve the public interest, achieving the great majority of the benefits of rate integration at the lowest possible cost.

1/ AT&T at 3 (claiming \$3 million cost to modify billing system), 4-6; Sprint at 5-7; IT&E at 4-5.

2/ AT&T at 3 (\$5 million cost to rate integrate Guam and CNMI *with* NANP participation); Sprint at 6-7.

3/ Sprint at 2.

4/ AT&T at 6-7 n.5.

If, however, the Commission is reluctant to allow the implementation of Option (3), then it is important to keep in mind that it is the carriers themselves -- not the American Samoa Government -- that are subject to the obligation under Section 254(g) to integrate their rate schedules for American Samoa into their national domestic rate schedules. 5/ In the absence of Option (3), the carriers themselves should be placed in the position of deciding whether Option (1) or Option (2) is more cost-effective. Thus, the carriers should decide whether it would be less costly for them to discharge their own obligation to implement rate integration by (1) paying the cost of American Samoa's joining the NANP, or (2) undergoing a costly modification to their billing systems. (To the extent that any waivers are necessary to facilitate the implementation of Option (3), ASG would support such waivers.)

The complexity of enabling subscribers in American Samoa to reach toll-free domestic 800 and 888 numbers does not, in itself, justify the cost and burden of NANP implementation. 6/ As Mr. Wray points out, a number of U.S. 800 toll-free numbers already can be accessed from American Samoa. 7/ Neither ASG

5/ "We do not view [Guam's and CNMI's inclusion in the NANP and related] developments as preconditions for rate integration of services provided to these points. Rather, the statute requires rate integration regardless of whether these developments occur." *Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 1934, as amended*, CC Docket No. 96-61, Report and Order, 11 FCC Rcd 9564, 9597, ¶ 68 (1996) ("Rate Integration Order"), *aff'd on recon.*, First Memorandum Opinion and Order on Reconsideration, FCC 97-269 (released July 30, 1997).

6/ See AT&T at 6; Sprint at 5; Wray at 13-14.

7/ Wray at 13 & Exhibit B.

nor any IXC can control end users' decisions whether to make their 800/888 numbers accessible to subscribers in American Samoa or in any other part of the U.S. 8/ However, ASG respectfully submits that if (as Wray contends) IXCs are charging 800 subscribers \$2.15 per minute for calls from American Samoa but 12.5 cents per minute for calls from other domestic points, 9/ such rate disparities may not be consistent with the requirements of Section 254(g). This problem may be largely solvable through changes to the IXCs' basic rate schedules for domestic calls to American Samoa that their billing systems may continue to treat as "international." To the extent that rates for International 800 service are linked to the underlying basic direct-dial rates for the calls, as are most carriers' rates for domestic 800 service, this approach is likely to result in a far simpler, less costly, and more straightforward remedy to the problem of the relatively limited number of toll-free 800/888 numbers available from American Samoa than dragging all American Samoa traffic into the NANP. 10/

In sum, ASG's opposition to coming within the NANP is intended to save the people of American Samoa an expense of \$3.5 million or more, which in

8/ See ASG Plan at 11.

9/ Wray at 13.

10/ AT&T contends that, given the introduction of 800/888 number portability and other factors, the local carrier on American Samoa must invest in gaining access to the national SMS database which contains the routing information necessary to identify the IXC providing service to a particular toll-free number. AT&T at 6 & n.3. ASOC is in the process of exploring options for obtaining access to that database, and is very interested in working with the carriers on this issue.

ASG's view is a cost that is likely not to be justified by the benefit to the people of American Samoa. In particular, ASG believes that, given the alternative ways rate integration could be achieved, the benefits of coming within the NANP are minimal. Incurring major costs to bring American Samoa into the NANP would not serve the best interests of the people of American Samoa and is unnecessary to achieve the majority of the benefits of rate integration -- lower basic rates for calls between U.S. points and American Samoa, matching the basic rates for service between other domestic points. 11/

B. Rate Levels for Calls From Other U.S. Points to American Samoa

Section 254(g) imposes on providers of interexchange telecommunications services the responsibility to charge no more to serve subscribers in rural and high-cost areas than it charges to those in urban areas, and to provide such services at the same rates in all states and U.S. territories. This provision is part of a section of the Act relating to universal service. Unlike other subsections of Section 254, which contemplate keeping local rates universally affordable in high-cost areas through the use of explicit subsidy funds channeled

11/ *But see supra* page 5. ASG will not respond in detail to each of the the many accusations regarding ASG's proposals leveled by Mr. Wray, Wray at 14-18, most of which are baseless and irrelevant. ASG must, however, vigorously contest Wray's accusation that ASG's "real motive for its . . . resistance to a domestic area code for American Samoa . . . simply comes down to more money for ASOC." Wray at 16. ASG is not a profit-maximizing corporation; it is a democracy and the representative of the people of American Samoa. As such, ASG is solely interested in advancing their best interests as both ratepayers and owners of ASOC.

through an external administrator, Section 254(g) provides for universal service subsidies for long distance service to be handled internally by interexchange carriers ("IXCs"). IXCs are directed to charge averaged rates -- which inevitably will be below cost in high-cost areas (and in insular territories such as American Samoa), and above cost in low-cost areas.

The statute thus provides no basis for the reluctance of certain carriers to implement rate integration for calls to American Samoa because of the high cost of reaching American Samoa. For example, MCI observes that its costs to provide service to American Samoa may exceed its rates for such traffic, and takes the position that it "will not be implementing full rate integration to American Samoa" unless those costs are reduced substantially. ^{12/} Other carriers make similar arguments. ^{13/} But the rate averaging inherent in rate integration is a form of universal service, and it is unavoidable, under Section 254(g), that carriers' costs may exceed their revenues for particular routes. MCI's and other carriers' arguments are inconsistent with the Congressional intent behind Section 254.

To be sure, ASG concurs with the carriers' calls for reductions in the mutual call termination rates that apply to calls jointly handled by ASOC and the IXCs. ^{14/} Those rates already have declined substantially over the past few years, and ASG is committed to ASOC's participation in carrier-to-carrier negotiations

^{12/} MCI at 4 & n.6.

^{13/} See, e.g., Sprint at 7-8; IT&E at 4.

^{14/} MCI at 4; Sprint at 7-8.

that should lead to further reductions to those rates in the near future. But those carrier-to-carrier negotiations are beyond the scope of this proceeding, which solely concerns the integration and averaging of retail rates for interexchange service paid by end users. While ASG fully intends to cooperate with the carriers in reducing the carrier-to-carrier long distance call termination rates, ASG respectfully submits that those rate levels are irrelevant to the IXCs' legal obligation under Section 254(g) to implement rate integration.

Finally, ASG again states that, under its plan, the ASOC LEC entity will file tariffs offering access service on a nondiscriminatory basis within six months after the Commission approves the plan. ^{15/} In that context, it is important to clarify the difference between interstate access service and the form of carrier-to-carrier interconnection that exists today between ASOC and the four U.S. IXCs with direct connections to American Samoa -- AT&T, GTE, MCI, and Sprint. In the interstate access arrangements that have developed in the U.S. since the Bell system divestiture, a LEC provides access -- including local loops, switching, and transport -- to connect subscribers to an IXC's point of presence ("POPs") within the LEC's service area. LECs are not required to provide access service to carriers that do not have POPs located within their service areas.

Under ASG's plan, ASOC will retain its current carrier-to-carrier "mid-span meet" interconnection arrangements with carriers that lack POPs in American

^{15/} ASG Plan at 12-14, 17. ASOC is currently actively engaged in discussions with NECA regarding the process of joining that organization, and is weighing the advantages and disadvantages of NECA membership.

Samoa. 16/ Once carriers establish POPs in American Samoa, ASOC is legally required to provide interstate access service to them, and is firmly committed to doing so. ASG believes that competition for originating interexchange service would provide substantial benefits to the people of American Samoa, and is committed to facilitating such competition by offering access service to IXC's entering the American Samoa marketplace. But ASOC is not required to provide interstate access service to carriers with no presence in American Samoa, nor would it be physically possible for it to do so; and to suggest that it should 17/ is patently absurd.

III. RATE INTEGRATION FOR CALLS FROM AMERICAN SAMOA TO OTHER U.S. POINTS

In its plan, ASG stated that ASOC would be reducing its domestic rates by approximately 45% by comparison to the rates that were in effect before July 1, 1996. But these substantial rate reductions apparently are not enough for certain commenters. ASG will not respond to each of the arguments and accusations leveled by Mr. Wray in this context, 18/ most of which are factually

16/ Under the current interconnection arrangement, ASOC and the IXC's provide calls jointly through a "connecting carrier" arrangement. See ASG Plan at 4-5. Significantly, the compensation scheme is different from that for access service: ASOC pays the connecting IXC for completing calls from American Samoa to other U.S. points, and the IXC pays ASOC for completing calls to American Samoa. By contrast, in interstate access arrangements, the IXC pays the LEC for both originating and terminating traffic.

17/ E.g., IT&E at 5.

18/ Wray at 1-12.

incorrect, legally flawed, and irrelevant to this proceeding. Stripping away all this verbiage to its bare essentials, Mr. Wray -- together with some other American Samoa residents who, apparently relying on the factual contentions (and some serious misinformation) in Wray's newspaper advertisements, submitted informal comments in good faith -- make the following two basic arguments: (1) ASOC's rate levels for interstate service are too high; and (2) ASOC's rate levels for interstate service are higher than those charged by other domestic carriers.

Even if these arguments were correct, they are irrelevant to Section 254(g) of the Act and are beyond the scope of this proceeding. With regard to the first argument above, Section 254(g) says nothing about the absolute levels of rates; it addresses the relative level of rates that a carrier charges in high-cost areas and states by comparison with the rates it charges in low-cost areas. And with respect to the second argument, the plain language of Section 254(g) requires "a provider" of long distance service to offer service "in each State at rates no higher than the rates charged to its subscribers in any other State." ^{19/} There is no contemplation in the statute that the rates charged by one provider are to be compared with the rates charged by another provider. Nor did the Commission suggest such a concept anywhere in the Report and Order in this proceeding implementing the statute. ^{20/}

^{19/} 47 U.S.C. § 254(g) (emphasis added).

^{20/} Cf. *Rate Integration Order*, 11 FCC Rcd at 9582-83, ¶¶ 38-40 (rejecting proposal to forbear on rate averaging obligations based on relationship between an IXC's averaged rates and lower rates offered by other carriers).

Moreover, Wray has presented no evidence that ASOC's interstate rates violate the statute that governs their justness and reasonableness --

Section 201 of the Act, not Section 254(g). And this proceeding is an improper forum to address the reasonableness of ASOC's rate levels.

Finally, Wray's challenges to the ASG's proposed implementation schedule as unduly slow 21/ are baseless. Indeed, ASG believes that it has proposed the most aggressive, expeditious implementation schedule that could possibly be achievable, given the need to carry out a major organizational restructure to ASOC's operations and to conduct complex cost studies of a type that ASOC has never before conducted. Given the magnitude of the tasks before it, ASG does not believe that it is physically possible for ASOC to come into full compliance within a shorter time frame. It is for that reason that ASG proposed that initial access rate levels would be established on an interim basis using a provisional formula. 22/ ASG hereby pledges that if it is possible to implement its plan and to come into full compliance with the Commission's policies sooner, it will do so.

21/ Wray at 7, 9-11.

22/ ASG Plan at 17.

CONCLUSION

For the foregoing reasons and for the reasons presented in its initial plan, ASG's plan for the implementation of rate integration in American Samoa should be approved by the Commission.

Respectfully submitted,

AMERICAN SAMOA GOVERNMENT

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Dated: November 26, 1997

CERTIFICATE OF SERVICE

I, Rebecca G. Wahl, hereby certify that on this 26th day of November, 1997, a copy of the Reply of the American Samoa Government to Comments on Its Proposed Rate Integration Plan for American Samoa was hand delivered to the parties listed below (except as indicated by asterisks).



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